

MUNICIPAL ETHICS: Crafting a Code



Alan Bojorquez
City Council Meeting
March 20, 2018

How We Got Here



Denton voters demanded ethics reform at the ballot box

By Trent Seibert - November 9, 2017



Charge to Charter Review Comte

To consider and advise the City Council of Denton whether and in what manner to revise the current City Charter provisions of Article XIV, Sections 14.04 and 14.05 so as to replace the Denton citizen-adopted Texas Local Government Code, Chapter 171 conflict of interest and nepotism standards with **alternative ethics provisions**, and to revise any other City Charter provisions that relate to ethics.

Charter Review Comte's "Letter"

Charge #6 – Ethics: Ordinance Recommendations

It is recommended the Ethics Ordinance address the following issues at a minimum:

- Elected and appointed officials shall **recuse** themselves from any discussion or agenda item wherein a conflict or appearance of conflict of interest may exist.
- Recusal shall mean not only NOT VOTING but also **not participating** in discussions, deliberations, or lobbying regarding the matter or closely related matters, either in the public forums or otherwise.
- Conflict shall be at a minimum as defined in the state law and more stringent in that percentage of ownership shall not be greater than **2 %** or **\$ 500**, whichever is less, nor income derived be greater than **\$ 1,000** for either prior or current year.
- Conflict criteria shall apply to officials and appointees who have fiduciary relationships with parties with pecuniary interest in such matters.
- Elected and appointed officials shall comply with all applicable laws of the State of Texas, including but not limited to Local Government Code Chapter 145, Local Government Code Chapter 171, Local Government Code Chapter 176, Penal Code, Sections 36.02, 36.03, and 36.04.
- Ethics complaints shall be heard by a **three-person panel** with mediation and arbitration experience. Council shall select and determine remuneration for a panel pool of not less than seven so that a rotating sequence may be established.
- A mandatory Ethics **training** regimen shall be adopted and enforced for all elected and appointed public officials. The regimen shall address both introductory and ongoing training with a minimum of quarterly continuing education for Ethics.
- Consideration shall be undertaken to include all city employees under the Ethics Ordinance to promote employee ethics education, compliance and ongoing training. Care should be exercised to fully interface existing policies and procedures to avoid management conflicts.

Charter Review Comte: Final Report

Add the following section:

- The City Council shall **adopt an ethics ordinance**.
- At the minimum, the ethics ordinance shall incorporate the conflict of interest standards that appear in chapter **171** of the Texas Local Government Code and all state law as presently exist or may be hereafter amended or adopted.
- The Council may adopt more stringent standards than those that appear in state law, but the ethics ordinance shall at a minimum include the following components:
 - (1) Definition of a **prohibited improper economic interest and personal gain**;
 - (2) Definition of **recusal and improper participation** when a potential conflict of interest is present;
 - (3) **Avoidance of appearance of conflict of interest**; and
 - (4) Administration and **enforcement** of ethics ordinance coupled with strong and meaningful remedies for infraction.

Charter Election 2017

Proposition D: Shall Sections 14.04 and 14.05 of the City Charter be repealed and replaced with a provision requiring the adoption of an ethics ordinance by the city council in accordance with Texas law and adheres to certain minimum standards?



YES:	1, 822
NO:	276

Key Dates on Road to Code of Ethics

- November 7: Charter Election was held
- November 14: City Council hired an outside attorney
- November 20: Election Results certified
- December 5: Training Session
- December 19: Work Session #1
- January 27: Work Session #2 (on a Saturday)
- February 6: Work Session #3
- February 20: Work Session #4
- March 6: Work Session #5
- March 20: Work Session #6 & Public Hearing

Fostering Integrity at City Hall

Leadership
Administration
Regulation
Instruction
Accountability
Transparency



Considered Many Options

- Evaluated coverage by Texas law
- Reviewed samples from **18** Texas cities:
Abilene, Austin, Bastrop, Baytown, Carrollton,
Dallas, El Paso, Fort Worth, Galveston,
Houston, Irving, Kyle, Lakeway, Laredo,
Plano, Richardson, San Antonio, San Marcos
- Crafted a Code Specifically for Denton

§ 3-106. Purpose

The purpose of this Article is to foster an environment of integrity for those that serve the City of Denton and our citizenry. The City Council enacted this Article in order to increase public confidence in our municipal government.

§3-107. Applicability

This Article applies to the following persons:

- (a)** City Officials;
- (b)** Former City Officials whose separation from city service occurred less than two (2) years ago;
- (c)** Vendors; and
- (d)** Complainant(s).

§3-110. Expectations

- (a)** City Officials are expected to conduct themselves in a manner that fosters public trust.
- (b)** City Officials are charged with performing their public duties in a way that projects their own personal integrity and upholds the integrity of the organization.

§3-111. Mandates

- (a) Duty to Report.** City Officials shall immediately report any conduct that the person knows to be a violation of this Article.
- (b) Financial Disclosures.** All Candidates for City Council, including Candidates for Mayor, shall file financial information reports as required by, and in accordance with, State law. All prospective Vendors and City Officials shall file disclosure forms...

§3-112. Prohibitions

- (a) Conflicts of Interest.**
- (b) Gifts.**
- (c) Outside Employment.**
- (d) Representation of Others.**
- (e) Improper Influence.**
- (f) Misuse of Information.**
- (g) Abuse of Resources.**
- (h) Abuse of Position.**
- (i) Subsequent Work on Prior Projects.**

§3-115. Training

- (a) Curriculum;**
- (b) Orientation;**
- (c) Annual; and**
- (d) Exiting Officials.**

§3-116. Board of Ethics

- (a) Creation.**
- (b) Appointment.** by majority of City Council.
- (c) Number.** 7 regular members.
- (d) Terms.** 2 year, staggered terms.
- (e) Eligibility.** residents of the City of Denton.

§3-117. Advisory Opinions

(a) Requests. Any City Official...

(b) Issuance. By a Panel...

(c) Reliance. An affirmative defense

§3-118. Complaints

- (a) **Complainants.** Any person w/ knowledge
- (b) **Form.** promulgated by the City Auditor
- (c) **Contents.** concise, direct statements
- (d) **Violation Alleged.** on its face
- (e) **Affidavit.** must be sworn
- (f) **Limitations Period.** 6 months / 2 years
- (g) **Filing.** submitted to the City Auditor.
- (j) **Confidentiality** / (k) ***Ex Parte***

§3-119. Preliminary Assessment

(b) Assignment of Panel.

(c) Panel Determination.

(1) Actionable:

(2) Baseless:

(d) Appeals.

§3-120. Meetings

- (a) Calling Meetings.** Chair, members, or Auditor
- (b) Quorum.** (4)
- (c) Hearings.**
- (d) Purpose.**
- (e) Rules of Procedure.**
- (f) Open Meetings Act Compliant.**
- (g) Postponement.**

§3-121. Disposition

- (1) the Complaint is Baseless;
- (2) the alleged violation did not occur;
- (3) The Accused reasonable relied in good faith upon an Advisory Opinion, as provided in this Article; and
- (4) The Complainant failed to testify at the hearing.

§3-121. Disposition

(a) Dismissal.

(b) Sanctions.

(1) Letter of Notification.

(2) Letter of Admonition.

(3) A Reprimand.

(4) Recommendation of Suspension.

(5) Ineligibility.

(c) Frivolous.

§3-122. Reconsideration

Complainant or Accused may request...
Chairperson's sole discretion, ... new
evidence.

Public Hearing

